

3 FAM 6200 MANDATORY RETIREMENT

3 FAM 6210 MANDATORY RETIREMENT - GENERAL

(CT:PER-586; 06-07-2006)
(Office of Origin: HR/PE)

3 FAM 6211 AUTHORITY

(CT:PER-586; 06-07-2006)
(State only)
(Applies to Foreign Service Employees)

The authority for mandatory retirement is found in sections 601, 607-609, 812, 813, 2102, and 2106 of the Foreign Service Act of 1980, as amended (hereinafter the Act).

3 FAM 6212 MANDATORY RETIREMENT FOR AGE

(CT:PER-586; 06-07-2006)
(State only)
(Applies to Foreign Service Employees)

- a. Except as provided in paragraphs (b), (c), (d), and (e) below, career members of the Foreign Service (FS) shall be retired at the end of the month in which they reach age 65.
- b. If the Director General determines it to be in the public interest, a member of the FS who would be retired for age under 3 FAM 6212 (a) may be retained on active service for a period not to exceed five years.
- c. A member of the FS otherwise required to retire under 3 FAM 6212 (a) while occupying a position to which he or she was appointed by the President, by and with the advice and consent of the Senate, may continue to serve until that appointment is terminated.

- d. A member of the Service who would be retired for age under 3 FAM 6212 (a) and who has not accumulated five years of creditable service toward retirement (excluding military and naval service) will have the effective date of retirement postponed until the end of the month in which five years of such creditable service is accumulated.
- e. Certain diplomatic security (DS) special agents covered under Public Law 105-382 are subject to mandatory retirement effective on the last day of the month in which the employee attains age 57 and has 20 years of service as a special agent as provided under 3 FAM 6153.

3 FAM 6213 MANDATORY RETIREMENT FOR EXPIRATION OF TIME-IN-CLASS (TIC) AND TIME-IN-SERVICE (TIS)

3 FAM 6213.1 Definitions

(CT:PER-586; 06-07-2006)
(State only)
(Applies to Foreign Service Employees)

- a. Time-in-Class. Time-in-class (TIC) is time in a single salary class.
- b. Time-in-Service. Time-in-service (TIS) is time in a combination of salary classes, computed from date of entry into the Foreign Service.

3 FAM 6213.2 Effective Date and Transition Provisions

(CT:PER-586; 06-07-2006)
(State only)
(Applies to Foreign Service Employees)

The TIC and TIS limits that appear in this section were effective as of October 1, 1999. These limits are subject to the following transition provisions.

3 FAM 6213.2-1 Conversion of Members to Classes FS-6 through 1

(CT:PER-586; 06-07-2006)
(State only)

(Applies to Foreign Service Employees)

Career Foreign Service officers (FSO) who were converted to classes FS-6 through 1 under section 2102 of the Act (22 U.S.C. 4152) are subject to the time-in-class limits applicable to them at the time of conversion. The time in single or multiclass prior to and after conversion will be counted at the appropriate equivalent class levels. The applicable TIC limits are:

Class	Time-in-Class
Prior-Present	(TIC) Limits
FSO 3-6/FS 1-4	
(1) Officers promoted to FSO-5 prior to January 1, 1978, and mid-level hires appointed as FSO-5, 4, or 3.	22 years time-in-multi-class (from FSO-5/FS-3 through FSO-3/FS-1) with no more than 15 years in any one class.
(2) Officers commissioned or tenured under the Career Candidate Program.	22 years time-in-multi-class (from FSO-6/FS-4 through FSO-3/FS-1) from date of commission or tenure with no more than 15 years in any one class.

3 FAM 6213.2-2 Conversion of Career Members Other Than FSOs

(CT:PER-586; 06-07-2006)

(State only)

(Applies to Foreign Service Employees)

- a. Foreign Service staff officers (FSSOs) and Foreign Service reserve officers with unlimited tenure (FSRUs) who converted to classes FS-6 through 1 in the Foreign Service Schedule are subject to the time-in-class limits applicable to the occupational category of their primary skill code under 3 FAM 6213.3-5. Their TIC will be calculated on the basis of their period of career employment in the Foreign Service (FS) in the classes to which TIC is applicable and in comparable classes under their former pay plans (Classes FS-4 through 1, FSSO-4 through 1, and FSRU-6 through 3 in most categories; classes FS-6 through 1 and equivalent for communications officers). However, no such member will be mandatorily retired for exceeding TIC limits until eligible for an immediate annuity in accordance with 3 FAM 6216.2-1 (b).
- b. The TIC limit applicable to a career member who has converted from the FSS or FSRU pay plans is the TIC limit in the occupational category of the

member's current primary skill code, counting time in all applicable classes regardless of any prior skill code change. A member who changes primary skill code will be governed by the TIC applicable to the new occupational category calculated in accordance with 3 FAM 6213.4. A member who has converted and who is in an occupational category not subject to TIC will not be subject to TIC unless the member subsequently changes to an occupational category subject to TIC, in which case the member will be subject to TIC as provided in this section.

- c. In calculating TIC under this section, all periods in career status, except those periods exempted under 3 FAM 6213.5, will be counted from the date of promotion or appointment as a career member of the Foreign Service in the lowest equivalent class subject to TIC in the member's occupational category under 3 FAM 6213.3-4.

3 FAM 6213.2-3 Members Promoted Prior to October 1, 1999

(CT:PER-586; 06-07-2006)
(State only)
(Applies to Foreign Service Employees)

Career officers at class FE-CM who were promoted prior to October 1, 1999, retain their 10-year single-class TIC. Generalist officers who were promoted to class FS-2, FS-3, or FS-4 prior to October 1, 1999, retain their 15-year single-class TIC until promoted to the next higher class.

3 FAM 6213.3 TIC and TIS Limits

3 FAM 6213.3-1 Members Who Are Not Subject to Mandatory Retirement for Time-in-Class (TIC)

(CT:PER-586; 06-07-2006)
(State only)
(Applies to Foreign Service Employees)

Career Foreign Service (FS) specialists in classes FS-9, 8, 7, 6, and 5.

3 FAM 6213.3-2 Members Who Are Not Subject to Mandatory Retirement for Time-in-Class (TIC) or Time-in-Service (TIS)

(CT:PER-586; 06-07-2006)
(State only)

(Applies to Foreign Service Employees)

Career Foreign Service specialists in the following occupational categories, with limited career structures:

Category	Skill Code
Office Management Specialists	9017
Medical Technicians	6145
Security Technicians	2560

3 FAM 6213.3-3 Career Members of the Senior Foreign Service

(CT:PER-586; 06-07-2006)

(State only)

(Applies to Foreign Service Employees)

- a. Subject to 3 FAM 6213.6, 3 FAM 6216.2-1, and 3 FAM 6216.2-2, and except as provided for in paragraphs (b) and (c) below, the maximum TIC limits for career generalist and specialist Senior Foreign Service members are:
 - (1) Counselor – 7 years;
 - (2) Minister-Counselor – 14 years combined TIC with no more than 7 years in the class of Counselor; and
 - (3) Career Minister – 7 years
- b. The TIC of a member in the class of Career Minister who has been conferred the personal rank of Career Ambassador in accordance with section 302(a)(2) of the Foreign Service Act of 1980 (22 U.S.C. 3942(a)(2)) shall be extended until the end of the month in which the member reaches age 65, unless further extended in accordance with 3 FAM 6212 (b) or 3 FAM 6212 (c).
- c. Notwithstanding these TIC limits, the TIC of a career member of the Senior Foreign Service who entered the Service at class FS-1 and who is not eligible for voluntary retirement under section 811 of the Act (22 U.S.C. 4051) will not expire until the member is eligible for an immediate annuity.
- d. Career Senior Foreign Service specialists who have primary skill codes in

the following two occupational categories are subject to a 20-year TIC at class FS-1 and a 30-year multi-class TIS in classes FS-1, Counselor, and Minister-Counselor. There is no single-class TIC at the Senior Foreign Service levels for these two categories:

Category	Skill Code
Psychiatrist	6125
Medical Officer	6110

3 FAM 6213.3-4 Career Foreign Service Generalists

(CT:PER-586; 06-07-2006)

(State only)

(Applies to Foreign Service Employees)

Subject to 3 FAM 6216.2-1 and 3 FAM 6216.2-2, and except as provided for in the transition provisions of 3 FAM 6213.2, career generalist members of the Foreign Service are subject to mandatory retirement upon expiration of the following time-in-class (TIC) and time-in-service (TIS) limits:

- (1) Generalists who enter the Foreign Service at class FS-4, FS-5, or FS-6 are subject to a 27-year TIS limit calculated from date of entry into the Foreign Service through class FS-1, with no more than the following single-class TIC:

Class	Single-class TIC
FS-4	10 years
FS-3	13 years
FS-2	13 years
FS-1	15 years

- (2) Generalists who enter the Foreign Service at class FS-3, FS-2, or FS-1 are subject to the following TIS/TIC limits:

Class at Entry	Cumulative TIS through FS-1	Single-class TIC
FS-3	22 years	13 years
FS-2	20 years	13 years

FS-1	15 years	15 years
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- (3) Members of the Foreign Service who convert from specialist to generalist status through the skill code conversion process are subject to the following TIS/TIC limits, from the date of conversion:

Class on Conversion	Cumulative TIS through FS-1	Single-class TIC
FS-4	27 years	10 years
FS-3	22 years	13 years
FS-2	20 years	13 years
FS-1	15 years	15 years

3 FAM 6213.3-5 Foreign Service Specialists

(CT:PER-586; 06-07-2006)

(State only)

(Applies to Foreign Service Employees)

- a. Subject to 3 FAM 6213.6, 3 FAM 6216.2-1, and 3 FAM 6216.2-2, and except as provided for in the transition provisions of 3 FAM 6213.2 and in paragraphs (b) through (e) below, specialist members of the Foreign Service at class FS-4 and above who have primary skill codes in the following occupational categories:

Category	Current Primary Skill Code
Management – Finance	2101
Management – Human Resources	2201
Management – General Services	2301
Security Officer	2501
Security Engineer	2550
Diplomatic Courier	2580
Information Management Specialist	2880
Information Management Technical Specialist	2882

Information Technology Manager	2884
Printing	4100
Information Resource	4200
English Language Program	4300
Nurse	6115
Facilities Maintenance Specialist	6217
Construction Engineer	6218

They are subject to mandatory retirement upon expiration of a 30-year TIS limit from date of entry into the Foreign Service through class FS-1 or expiration of the following single-class TIC limits:

Class	Single-class TIC
FS-4	15 years
FS-3	15 years
FS-2	15 years – see (b) below
FS-1	15 years – see (b) below

- b. Foreign Service specialists who are promoted from class FS-3 to class FS-2 in less than 15 years at class FS-3 can carry over up to a maximum of 5 years of their unused single-class TIC and add it to their class FS-2 single-class TIC, thereby creating a new class FS-2 single-class TIC of up to 20 years. Likewise, Foreign Service specialists who are promoted from class FS-2 to class FS-1 in less than 15 years at class FS-2 can carry over up to a maximum of 5 years of their unused single-class TIC and add it to their class FS-1 single-class TIC, thereby creating a new class FS-1 single-class TIC of up to 20 years.
- c. Specialists who enter the FS (including conversion from Civil Service (CS)) above the class at which TIC limits begin for their occupational category and class or who change from primary skill codes not subject to TIC/TIS limits, listed in 3 FAM 6213.3-2, to an occupational category subject to TIC/TIS will be governed by the following cumulative TIC/TIS limits, except for the carryover provisions in 3 FAM 6213.3-5 (b).

Class of Entry or	Cumulative TIS through FS-1	Single-class
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Conversion		TIC
FS-4 or FS-3	30 years	15 years
FS-2	25 years	15 years
FS-1	20 years	20 years

- d. Specialists who change their primary skill codes from an occupational category subject to TIC to another occupational category subject to TIC will be governed by the TIC/TIS limits in the new occupational category. Time in class before and after skill code change counts in the calculation of TIC/TIS limits.
- e. Specialists who converted under section 2102 of the Act (22 U.S.C. 4152) are subject to the TIC limits of 3 FAM 6213.2-2, whether or not they change skill codes subsequent to conversion.

3 FAM 6213.4 Computations

((CT:PER-586; 06-07-2006)

(State only)

(Applies to Foreign Service Employees)

Time-in-service (TIS) is computed from the date of entry into the Foreign Service. Time-in-class (TIC) is computed from the date of promotion or appointment to the class.

3 FAM 6213.5 Calculation of Time-in-Class and Time-in-Service

(CT:PER-586; 06-07-2006)

(State only)

(Applies to Foreign Service Employees)

- a. Except as provided for in subsection (c), the calculation of maximum TIC and TIS under section 6213.4 shall include all periods of performance in relevant class except:
 - (1) Periods of separation from the service, including periods during which a member has been transferred to an international organization pursuant to 5 U.S.C. 3581 - 3584 with reemployment rights;
 - (2) Periods of consecutive leave without pay in excess of 3 months;

- (3) Periods where a sabbatical leave has been granted to a career member of the Senior Foreign Service in accordance with section 504(c) of the Foreign Service Act of 1980 (22 U.S.C. 3984), not to exceed 11 months;
- (a) Periods for which a Selection Board has "non-rated" a member of the FS on grounds of insufficient performance data for the most recent rating period subject to review of the Board;
 - (b) Periods for which the Director General or a Deputy Assistant Secretary of Human Resources determines that the member should be "non-rated" to correct denial of opportunity for promotional consideration resulting from inadequate or incorrect performance data or administrative error;
 - (c) Periods which are "non-rated" by direction of the Foreign Service Grievance Board, the Merit Systems Protection Board, the Department's Office of Civil Rights, or the Equal Employment Opportunity Commission:
 - Periods during which a member receives a "non-rating" for service as chairman of the Open Forum;
 - Periods during which members are serving as full-time elected AFSA officers (president and vice-president), but not to exceed two years in either position;
 - Commencing in 1985, periods of training in Japanese, Chinese, Arabic, and Russian, not to exceed one year;
 - Commencing in 1986, periods of training in Japanese, Chinese, and Arabic, not to exceed two years, and periods of training in Russian, not to exceed one year;
 - Commencing in 1987, periods of training in Korean, not to exceed two years;
 - Commencing in August 1987, periods of training in all hard languages (44 weeks or longer), not exceed one year (except for Japanese, Chinese, Arabic, or Korean), provided that the full course is completed prior to the expiration of the member's TIC;
 - Commencing in the 1987-88 academic year, periods of university economics training, not to exceed one year;

- Commencing on September 4, 1991, periods of training in international labor affairs provided through the Foreign Service Institute, not to exceed one year; and
 - Periods of long-term training under way on or after March 12, 1997, as certified by HR/CDA/CDT.
- b. When TIC is extended under 3 FAM 6213.5 (a), paragraphs (1) through (15), so that, without reference to the Senior Threshold Window (3 FAM 6213.7), the member is entitled to one or more additional selection board reviews, the Senior Threshold Window will be extended by that number of additional board reviews, provided that all of the periods specified in 3 FAM 6213.5(a), paragraphs (1) through (15), occurred in whole or in part during the period after opening of the Senior Threshold Window.
- c. Effective June 1, 2006, members of the Senior Foreign Service at the counselor level (FE-OC) who receive a TIC extension under 3 FAM 6213.5 (a), paragraphs (9) through (15), and are subsequently promoted to minister-counselor (FE-MC) may not apply the TIC extension to the combined OC/MC 14-year TIC.

3 FAM 6213.6 Annuity Exception

(CT:PER-586; 06-07-2006)

(State only)

(Applies to Foreign Service Employees)

Notwithstanding TIC/TIS limits established elsewhere in this section, the TIC of a career member of the Foreign Service who is not eligible for voluntary retirement under section 811 of the Act (22 U.S.C. 4051) or who is not qualified for an immediate annuity under section 609 of the Act (22 U.S.C. 4009) will not expire until the member is eligible for an immediate annuity.

3 FAM 6213.7 Limited Career Extensions

(CT:PER-586; 06-07-2006)

(State only)

(Applies to Foreign Service Employees)

- a. In accordance with sections 602(a)(4) and 607(b) of the Act, and pursuant to Delegation of Authority 221, the Director General may offer Limited Career Extensions (LCEs) to certain career members of the Foreign Service for whom there are no promotion opportunities at the next higher grade. Such members must be:

- In their last year of time-in-class under 3 FAM 6213.3 and the transition provisions of 3 FAM 6213.2
 - In one of the following classes
 - FE-OC and FE-MC generalists
 - FS-1, FE-OC, and FE-MC specialists
- b. LCEs may be granted to fill overseas positions with qualified officers when there are no bidders, at-grade and in-cone, late in the bidding cycle. The limited number of LCEs that may be granted will be determined by specific Service needs to retain expertise and experience in short supply. LCEs are granted in accordance with Selection Board recommendations.
- c. The positions potentially available for assignment through LCEs are senior Generalist and Specialist and FS-1 Specialist advertised vacancies that remain unassigned no less than 30 days after the opening of the stretch assignment season. No executive direction positions (ambassador, deputy chief of mission, principal officer, assistant secretary, or deputy assistant secretary) will be considered in the LCE program, and no positions will be created to provide LCE opportunities. With the exception of political adviser (POLAD) positions, no detail to another agency, reimbursable or non-reimbursable, will be eligible for an LCE.
- d. Identification of positions to be staffed through LCEs:
- (1) The LCE season will commence 30 days after the beginning of the stretch season for Generalists. The relevant bureau or Human Resources (HR) may request the Director General to authorize an LCE for a specific position. The request must justify why the position should be considered and present the views of both HR and the bureau(s) concerned. The Director General decides whether a senior position can be filled by a qualified FS-1 bidder.
 - (2) The Director General will authorize the LCE, deny the LCE, or direct a senior cede in accordance with procedures of the Office of Career Development and assignments (HR/CDA), in order that FS-1 bidders on the position may compete prior to granting an LCE. All qualified FS-1 bidders on the position will be brought to the assignments panel within 30 days of a senior cede. If the position remains unfilled after 30 days, it will be deemed approved for the LCE program.
- e. Selection Board procedures:

- (1) Before consideration of LCEs, the Selection Boards will first complete their consideration of the Official Performance Folders of members for promotion and possible selection out or low ranking.
- (2) If the Director General has determined that, because of FS needs, a limited number of LCEs may be granted, the Director of the Office of Performance Evaluation (HR/PE) will provide the relevant Selection Boards the names of all career members in the class who are in their last year of time-in-class but who were not reached for promotion. Based on the identification of positions to be staffed through LCEs, the Director General will provide the Selection Boards information on the particular specialized skills that have been determined to be in short supply for the subsequent three-year period.
- (3) The relevant Boards will review the records of all members to be considered for LCEs, applying the same criteria as for promotion. However, recognizing that members extended will serve only in their present class, the Boards will give considerably less weight to evidence of potential to perform at the next higher class and substantial weight to the quality of performance and potential for continued outstanding service in the class in which the member is being considered for an LCE.
- (4) Based on its review, each Board will list in rank order, by cone, and additionally classwide for FE-OC and FE-MC generalists, those members whom it deems qualified for a limited career extension. The Director General will grant LCEs only to members whom the Board has found qualified and to those members in the rank order recommended by the Board.

f. Selection of LCE candidates for assignment:

- (1) When the conal and classwide rank order lists have been established, the eligible candidates will be notified of their place on the rank order lists and the governing regulations. All candidates on these lists will be furnished with information concerning the vacancies approved for LCE staffing as soon as possible after the Director General's determination.
- (2) The Director General will offer the top-ranked candidate on the conal and classwide lists who has been medically cleared for overseas service the choice of any of the positions on their respective lists. When both FE-MC and FE-OC lists are established, a position classified at the FE-MC level will first be offered to all candidates on the appropriate FE-MC conal or classwide list. If no

FE-MC candidate accepts the offer, then the offer will be made to FE-OC candidates of the applicable FE-OC list. Similarly, for FE-OC positions, a position will be offered first to all FE-OC candidates of the applicable conal or classwide list; and if no FE-OC candidate accepts the offer, then the offer will be made to FE-MC candidates on the applicable FE-MC list. The candidate may accept an offer or decline them all. Once the top-ranked officer has selected a position or declined them all, the second officer on the respective lists will be offered a choice of the remaining positions. Offers will be made sequentially to officers further down the respective rank order lists until the available positions are exhausted. If additional positions are added, they will be offered to candidates in their rank order.

- g. Waivers will be given to those offered LCEs who do not have the required language for a position. However, prior to proposing the LCE, the position will be re-advertised with a language waiver for the requisite two weeks on the combined Open Assignment list.
- h. Any career member of the Foreign Service granted an LCE will be eligible for an assignment for a period of the standard length of tour of the post, but in no case beyond the member's mandatory retirement for age, unless retained on active service in accordance with 3 FAM 6212 (b). If the employee is currently stationed at the same post as the LCE tour, then the combined tour of the officer and the LCE tour shall not exceed four years at that post. LCE recipients will be eligible for the other benefits associated to the positions to which they are assigned.
- i. The tours of duty for LCE recipients may be curtailed and the LCEs terminated in the following circumstances:
 - (1) Voluntary curtailment for personal reasons: The recipient will not be offered another position, and the LCE will terminate 30 days after departure from post.
 - (2) Loss of the required medical clearance upon return from post on travel before the end of the assigned tour: The LCE will terminate 30 days from the Medical Director's determination, on the basis of a thorough examination of the medical record, that a return to post will not be authorized.
 - (3) Post closure: The LCE is valid for the stated tour of duty unless the post is closed, whereupon the LCE will terminate 30 days after departure from post.
- j. No LCE recipient will be eligible for promotion or LCE renewal.

3 FAM 6213.8 Members Requesting Promotion into the Senior Foreign Service

(CT:PER-586; 06-07-2006)

(State only)

(Applies to Foreign Service Employees)

- a. The Official Performance Folders (OPFs) of career members of the Foreign Service at class FS-1 who request consideration for promotion into the Senior Foreign Service and who meet the eligibility requirements specified in the Department's annual guidance to FS-1 officers by worldwide telegram and Department notice will be reviewed for promotion by annual Senior Threshold Selection Boards (STBs). Other eligibility requirements include, but are not limited to, membership in an occupational category, as indicated by primary skill code, for which at least some promotion opportunities are expected at the FS-1 to FE-OC level.

Effective October 1, 1999, STB reviews for members in specialist categories will only be counted during years when at least one promotion opportunity is available. The maximum number of STB reviews to which any member shall be entitled is six. No member shall be considered by an STB that convenes after the month of expiration of the member's TIS/TIC limit. A member who is not promoted during this "Senior Threshold Window" as the result of six or fewer STB reviews will, notwithstanding the TIS/TIC limits otherwise applicable in this section or the transition provisions of 3 FAM 6213.2, be mandatorily retired in accordance with 3 FAM 6216.

- b. A member who has requested consideration for promotion into the SFS may subsequently withdraw that request, but will continue to be subject to mandatory retirement as provided in 3 FAM 6213.7 (a) and may not thereafter request consideration for promotion into the SFS unless the request was withdrawn prior to the first review for promotion by the STB. Any such members will be subject to separation by November 1 of the year of what would have been the member's final review. A request that is withdrawn prior to a first STB review may be resubmitted at a later time.

3 FAM 6214 MANDATORY RETIREMENT BASED ON RELATIVE PERFORMANCE

(CT:PER-586; 06-07-2006)

(State only)

(Applies to Foreign Service Employees)

A career member of the FS shall be retired for failure to meet the standards of performance for his or her class, in accordance with section 608 of the Act (22 U.S.C. 4008).

3 FAM 6214.1 Selection Board Responsibilities

(CT:PER-586; 06-07-2006)

(State only)

(Applies to Foreign Service Employees)

Selection Board responsibilities for low ranking and possible referral to Performance Standards Boards of career members of the Service who are reviewed for promotion are defined in the Procedural Precepts for the Foreign Service Selection Boards (3 FAH-1 H-2320 Exhibit A).

3 FAM 6214.2 Performance Standards Boards (PSBs)

(CT:PER-586; 06-07-2006)

(State only)

(Applies to Foreign Service Employees)

- a. HR/PE will convene as many PSBs as may be necessary in light of the number and class of career members designated for PSB review after each rating period. PSBs will determine, on the basis of the PSB precepts, whether career members should be retired for failure to meet the performance standards of their class.
- b. Each PSB shall be made up of at least three members who, to the fullest extent possible, shall all be career members of the Service of a class at least one level above those Foreign Service members whose records will be reviewed by the Board. The members of PSBs shall be knowledgeable about the occupational requirements of the categories of members they review.
- c. PSB criteria for determining whether or not to retire mandatorily a member of the FS are contained in the PSB precepts at 3 FAM 6214.2-1.
- d. PSBs will review or have available for reference during their deliberations only the following material:
 - (1) A copy of the Foreign Service Act of 1980, as amended, and these regulations (see 3 FAM 6200);
 - (2) A copy of the PSB precepts (see 3 FAM 6214.2-1) and the relevant

Selection Board substantive and procedural precepts;

- (3) The Official Performance Folders of the members referred to the PSB;
 - (a) Previous Selection Board rankings of the members referred to the PSB for the years they were in their present class; Selection Board justifications for previous low rankings and for the designation for PSB review; previous findings of PSBs or Special Review Boards concerning members reviewed while they were in their present class, together with the record of actions taken;
 - (b) Lists of the members who competed before Selection Boards against those designated for PSB review;
 - (c) The Official Performance Folders of other members in corresponding classes and functions, to compare their performance records with those of the members under review; and
 - (d) Any other material that was available to the Selection Boards that low ranked the members under review.
- e. At the conclusion of their review, PSBs shall submit to the Director General their findings, which shall include a list of the members designated for mandatory retirement under section 608 of the Act (22 U.S.C. 4008), along with individual statements justifying the Board's findings in each case. These statements shall indicate the documented shortcomings where the members did not meet the standards of their present class, as set forth in the Procedural Precepts for the Performance Standards Boards (3 FAM 6214.2-1). The Director General shall review each PSB's findings to determine if they are in accordance with PSB precepts. Upon his or her acceptance of each PSB's findings, the Director General will instruct HR/PE to carry out its recommendations for separation.
- f. Employees designated for separation by PSBs will be informed promptly in writing by the Director General, provided a copy of the PSB statement of justification, and informed of the specific date for mandatory retirement from the Service. They will separately be advised in writing by HR/CDA of their rights to appeal the separation to a Special Review Board (SRB) within 20 calendar days of receipt of HR/CDA's letter or to file a grievance at any time prior to their mandatory retirement date. An employee may not avail himself or herself of both the SRB and a grievance, but must choose between them. An employee will not be

separated from the FS while the SRB review is pending or while the grievance process is pending at the initial level below appeal.

- g. Members who are reviewed but who are not designated for mandatory retirement by the PSBs will be so informed in writing. The PSB will prepare a counseling statement to be provided to each such member by HR/PE.

3 FAM 6214.2-1 Procedural Precepts for the Performance Standards Boards

(CT:PER-586; 06-07-2006)

(State only)

(Applies to Foreign Service Employees)

- a. PSBs will be guided by the following standards of performance to be met by career members of the Service:
 - (1) The wide variety of both Foreign Service functions and working conditions precludes defining specific and fixed class standards embracing precise requirements. Therefore, the performance standards are expressed in broad terms. In general, PSBs shall weigh heavily documented shortcomings in one or more skills, abilities, or areas of knowledge that are pertinent to the occupational category of the member reviewed. PSBs shall also take into account failure to overcome these shortcomings after they have been brought to the attention of the member. A member's failure to meet the standards of a class may manifest itself in relative or comparative shortcomings in necessary skills, abilities, or areas of knowledge in comparison with other members in the same class and occupational category.
 - (2) In judging the relative performance of a member under review, each PSB will give particular weight to documented shortcomings in those areas of quality, competency, and responsibility as set forth as "Decision Criteria for Promotion" in the most recent Selection Board precepts, including both the areas of specific competence identified in the precepts and those areas of responsibility specified as factors which in themselves may be possible grounds for low ranking.
 - (3) Each PSB will review a sufficient number of Official Performance Folders of other members in the class and occupational category of the member under consideration to ensure that it has a reliable measure of the character and quality of performance in the relevant

category. The Board will review no fewer than ten Official Performance Folders in each case as a representative sample picked at random from the appropriate category, unless the class and occupational category includes fewer than ten members. In this instance, the PSB will review the files of all other members of the class and category of the member under review. Each PSB will then determine, in reviewing the record of the member under review in light of the criteria in paragraphs (a)(1) and (a)(2) above, whether the member under review has failed to meet the standards of performance while in present class.

- (4) To justify a designation of selection-out, a PSB need not conclude that the member's performance was unsatisfactory per se or that the member's utility to the FS is marginal in an absolute sense. Rather, its duty is to examine the records of the member under review and related material, in comparison with other records reviewed, and to designate for selection-out those whose performance (evaluated in terms of assigned duties, goals, and work requirements) or whose deficiencies in work-related personal qualities or professional skills indicate that they have not met the standards of performance for their class.
 - (5) A PSB shall not consider any of the following:
 - (a) The time remaining before a member arrives at what may be mandatory retirement either for age or time-in-class/time-in-service;
 - (b) A member's age, sex, national origin, religion, race, color, sexual orientation, or disability.
 - (6) A PSB should not penalize unfairly a member who has received an honest, candid, or constructively critical report and shall review the member's prior rankings in present class for balanced consideration.
 - (7) A designation of selection-out ordinarily will not be based solely on the reports of a single rater. The Board should be able to identify some or all of the critical shortcomings among the reports of more than one rater. Where a Board's decision rests predominantly on the reports of one rater, the Board must consider whether there is any indication of unfair, negative bias by the rater.
- b. Decision Rule: The decisions of a Board respecting selection-out will be by majority vote.

c. Proscriptions Against Outside Inquiry:

- (1) Prohibition against obtaining other information;
- (2) A PSB will refer questions about its work only to the Office of Performance Evaluation (HR/PE);
 - (a) PSB members will have available only the material specified in 3 FAM 6214.2 (d). They will neither seek nor receive, from any source, any other information (including but not limited to information regarding health, suitability, assignability, or reputation of any member of the FS under consideration); and
 - (b) Should any unauthorized information referred to in paragraph (b) above come to the attention of a Board member, that Board member will report this in writing to HR/PE.
- (3) Personal Knowledge of Board Members:
 - (a) PSB members cannot rely upon or relay to other Board members personal knowledge of a member under consideration.
 - (b) When a PSB member believes the she or he may be unable to render a fair and unbiased judgment of a career member, that PSB member shall state that fact in writing and will be excused from further consideration of the member. That PSB member shall continue to participate in the other activities of the PSB and shall not be required to state a reason for not participating in the consideration of a particular career member.
 - (c) A PSB member who was the career member's rater or reviewer while the career member was in present class will be excused from participating in making a decision only if the career member being reviewed so requests.

d. Oath of Office:

All Board members will adhere to the following oath: "I _____ do solemnly (swear/affirm) that I will perform the duties of a member of a Performance Standards Board faithfully and to the best of my ability; that I will adhere to the Precepts and apply them without prejudice or partiality; and that I will not reveal to unauthorized persons any information concerning the personnel records used or the deliberations and recommendations of the Board. (So help me God/I so swear.)

- e. Expiration: These precepts shall be extended from year to year and continue in force in their present form unless the Department or the employee representative organization gives notice in writing to the other of its intention to propose modifications.

3 FAM 6214.3 Special Review Boards (SRBs)

(CT:PER-586; 06-07-2006)

(State only)

(Applies to Foreign Service Employees)

- a. Any member who wishes to appeal a designation for separation by a PSB to an SRB must submit a written notice of appeal to the Director of HR/PE within 20 calendar days of receiving notice of the rights to appeal. HR/PE will convene an SRB to conduct an administrative review of the PSB decision in accordance with the precepts at 3 FAM 6214.3-1. Under 3 FAM 4428, and as explained above in 3 FAM 6214.2 (f), a member who appeals a PSB decision to an SRB is precluded from also filing a grievance challenging the PSB decision. An appeal to an SRB, however, does not preclude a proceeding under 5 U.S.C. 1214 or 1221.
- b. An SRB shall be made up of three or more Foreign Service members senior in class to the appellant. Each SRB shall be assisted by a procedural adviser who is experienced in hearings related to adverse personnel actions. To the fullest extent possible, the members of the SRB will be experienced in various Foreign Service functional areas and be knowledgeable about the occupational area of the appellant, with at least one SRB member having direct work experience in the appellant's primary functional field.

The senior member of the SRB will serve as chairperson. The names of prospective SRB members will be reviewed by the employee representative in accordance with existing collective bargaining agreements on the composition of Selection Boards. The name of the proposed procedural adviser to the SRB will also be submitted to the employee representative. The procedural adviser shall not be a Department official or have served in the last two years with the Bureau of Human Resources or the Office of the Legal Adviser or in any other capacity representing the Department's interest against an individual employee's claim or complaint. The procedural adviser shall not vote or participate directly in the disposition of the appeal but will advise the SRB on procedures and rulings to ensure administrative due process.

- c. Each SRB shall conduct a hearing to receive testimony, as well as to consider evidence that was available to the PSB. The appellant has the

right to introduce evidence in writing or orally at the hearing. The SRB shall base any decision to overturn the PSB decision only on one or more of the following grounds:

- (1) Additional evidence clearly shows that the PSB's finding relied in determinative part on material that was erroneous or falsely prejudicial;
 - (2) The PSB failed to comply with its precepts (see 3 FAM 6214.3-1); or
 - (3) Additional evidence indicates that severe or extraordinary circumstances beyond the control of the appellant temporarily affected adversely the appellant's performance but are not expected to recur.
- d. An appellant has the right to choose a representative who may be present and participate in every stage of proceedings before the SRB.
- e. The first hearing of an SRB shall not be sooner than 45 calendar days from receipt of the PSB notice by the appellant, to allow a reasonable time to prepare the appellant's case before the SRB.
- f. After reviewing all evidence, the SRB shall decide by majority vote either to sustain the PSB's decision or to overturn it. The SRB's decision shall be transmitted in writing to the Director General, with a copy to the appellant.
- g. An SRB decision to overturn selection-out may include supplementary recommendations to the Director General for corrective action related to its decision, such as: expunctions from the Official Performance Folder of erroneous or prejudicial material; insertion by the Director General of a statement explaining, clarifying, or putting into perspective performance evaluations; or recommendations for extension of time-in-class/time-in-service or other actions deemed necessary to correct any prejudice found. Any such Board recommendations should be precisely framed to facilitate their implementation and should be supported by written justification. Such recommendations will not be binding, but if not implemented, the appellant may pursue such remedies as may be available through the normal grievance process.
- h. If the SRB overturns the PSB decision, the member may continue in the FS, but the TIC/TIS limits will not be extended to make up for any period of selection board ineligibility resulting from the earlier PSB decision unless such extension is ordered as a result of a separate and subsequent grievance action.
- i. If the SRB upholds the PSB decision, the member may request, within 10

working days of the SRB decision, reconsideration of the SRB decision. The SRB may agree to reconsider a case if the member can show:

- (1) A specific error of fact or interpretation of fact in the SRB's original finding; or
 - (2) Newly discovered or previously unavailable material evidence.
- j. An SRB decision to uphold a PSB decision becomes final and binding upon:
- (1) The expiration of 10 working days following the appellant's receipt of the SRB decision, if no written request for reconsideration is filed;
 - (2) The SRB's denial of an appellant's request for reconsideration; or
 - (3) The reaffirmation by the SRB of its original decision. Such a decision constitutes final administrative action of the Department, and the Director General will set the effective date of separation in accordance with 3 FAM 6216.

3 FAM 6214.3-1 Procedural Precepts for the Special Review Board

(CT:PER-586; 06-07-2006)

(State only)

(Applies to Foreign Service Employees)

- a. General: The Special Review Board (SRB) will be convened for any career member of the Foreign Service (FS) who timely exercises the right of appeal from a Performance Standards Board's (PSB) designation for selection-out of the FS under section 608 of the Foreign Service Act of 1980 (22 U.S.C. 4008), as amended. The SRB will conduct a review of the PSB decision in accordance with these precepts and will uphold or overturn that decision. The decision of the SRB will be binding on the Department. (See 3 FAM 4400 concerning possible grievance in lieu of appeal.)
- b. Rights of Appellant: In addition to the right to an evidentiary hearing and the other rights specified in 3 FAM 6214.3, the appellant has the right to the following:
 - (1) Access to Department telegram facilities for transmission of interrogatories and other messages relevant to the appeal;

- (2) Appropriate access to Department records requested to substantiate the appeal that the SRB deems relevant to the proceeding. When deemed appropriate by the Department or the Board, the appellant may receive only a summary or extract of classified material. Disclosure of any official Department record to the Special Review Board or an appellant is not required where the Secretary or Deputy Secretary determines in writing that such disclosure would adversely affect the foreign policy interests or national security of the United States. Access to the appellant's personnel records shall be governed by 3 FAM 2350 and 3 FAH-1, H-2350.
- (3) A reasonable amount of administrative leave to prepare the case (this applies equally to the appellant's representative if an employee of the Department); and
- (4) Travel orders and per diem (for appellant only) for temporary duty in the Washington, D.C. area (Washington, DC per diem may begin up to 15 days before the scheduled date of the hearing).

c. Board Procedures:

- (1) Documentary Material: Before the first pre-hearing conference, the Board and appellant will receive a list of, and access to, all material pertaining to the appellant that was available to the Performance Standards Board (PSB), including the PSB precepts and a copy of the PSB's statement of justification for its selection-out designation. Nothing herein precludes an appellant from requesting documents under the Privacy Act (5 U.S.C. 552a) and Freedom of Information Act (5 U.S.C. 552) and implementing regulations.
- (2) Schedule: The chairperson of the SRB will set a date for the hearing that is no earlier than 45 days after the appellant's receipt of written notice of rights to appeal the PSB decision. The appellant will be promptly notified of the date so that preparations for the appeal may be completed and, if appellant is overseas, travel to Washington, DC, may be scheduled. If the appellant believes that the scheduled hearing date does not permit adequate time to complete preparations for the appeal, a request for extension of the date must be promptly submitted in writing to HR/PE (by immediate cable, if overseas), explaining the reasons why additional time is required. The chairperson may reschedule the hearing for a later date, if he or she determines that the delay is necessary to permit the appellant to fairly and adequately complete preparations for the hearing.

(3) Pre-Hearing Conference:

- (a) The SRB will conduct one or more pre-hearing conferences to define and narrow the issues. These conferences are to establish, insofar as possible, the scope of material the Board is to consider, the number and identity of witnesses, and the timing and content of interrogatories, as well as to address any procedural questions. If the appellant is overseas, the chairperson may hold by teleconference or otherwise, as deemed appropriate. A pre-hearing conference will be held as promptly as possible after the appellant returns to Washington, DC, for the hearing (see paragraph (d) (4).)
- (b) At the first pre-hearing conference, the chairperson will set a deadline for the appellant to submit:
 - (i) A list of witnesses the appellant proposes to testify at the hearing;
 - (ii) Written interrogatories the appellant proposed to witnesses who will probably be unable to appear in person; and
 - (iii) Information on the evidence that each witness or interrogatory is expected to provide, when requested by the Board.
- (c) Should the SRB wish to call any witnesses or prepare any interrogatories, or should it desire to include information for the record, it shall give the appellant reasonable advance notice and shall provide the appellant with an opportunity to respond to the information included, or to call further witnesses or submit interrogatories in response. The appellant may be granted up to 20 calendar days to prepare responses to information included by the SRB.
- (d) The appellant may present to the SRB the texts of Grievance Board decisions that pertain to the appellant. The SRB shall ask the Department whether any documents or issues that the appellant contests in the appeal have received prior Grievance Board adjudication. The SRB shall recognize a decision of the Foreign Service Grievance Board as the definitive adjudication of all issues and contentions the decision addressed (for example, the accuracy and validity of an employee evaluation report).

- (4) Conduct of the Hearing:
- (a) The appellant and his or her representative are entitled to be present at the hearing. Only those who have the requisite security clearances may have access to classified material being presented or discussed. The Department will seek to expedite issuance of security clearances whenever the chairperson so requests in order to ensure a fair and prompt hearing before the SRB.
 - (b) Testimony at a hearing shall be given under oath.
 - (c) The appellant may present to the Board such material as the appellant believes supports the appeal. Information that would normally be inadmissible in the appellant's evaluation report may be raised by an appellant before the Special Review Board. The appellant and members of the SRB shall be entitled to examine and cross-examine witnesses at the hearing. The SRB may ask for justification of and rule on the relevance and materiality of the appellant's interrogatories. If the Board approves requests for additional witnesses or interrogatories, the chairperson may recess the hearing pending their availability.
 - (d) Upon request of the SRB, or upon request of the appellant that is deemed relevant and material by the Board, the Department shall promptly make available at the hearing or by interrogatory any witness employed by the Department.
 - (e) During any hearing held by the SRB, any oral or documentary evidence may be received, but the Board shall exclude any irrelevant, immaterial, or unduly repetitious evidence.
 - (f) The appellant may present a closing argument.
 - (g) A verbatim transcript by a court reporter shall be made of any hearing and shall be part of the record of proceedings.
- (5) Post-Hearing Brief: The appellant may present a post-hearing brief at a time specified by the chairperson.
- f. Decision: Upon completion of the hearing, the Board shall expeditiously decide the appeal on the basis of all the oral and documentary evidence it has received in the course of the hearing and the entire written record thereof. The Board shall not consider any other material. The SRB's written decision will include findings of the facts and will set forth the reasons for its decision. The decision will be sent to the Director General,

with copies to the appellant and representative, if any. A dissenting opinion may accompany the SRB decision.

- g. Waiver: An appellant may waive the right to a hearing or to present documentary evidence to the SRB. Such a waiver must be in writing and signed by appellant.

- h. Oath of Office:

All Board members will adhere to the following oath: "I _____ do solemnly (swear/affirm) that I will perform the duties of a member of a Special Review Board faithfully and to the best of my ability; that I will adhere to the Precepts and apply them without prejudice or partiality; and that I will not reveal to unauthorized persons any information concerning the personnel records used or the deliberations and recommendations of the Board. (So help me God/I so swear.)

- i. Expiration: These precepts shall be extended from year to year and continue in force in their present form unless the Department or the employee representative organization gives notice in writing to the other of its intention to propose modifications.

3 FAM 6215 MANDATORY RETIREMENT OF FORMER PRESIDENTIAL APPOINTEES

(CT:PER-586; 06-07-2006)

(State only)

(Applies to Foreign Service Employees)

Career members of the FS who have completed Presidential assignments under section 302(b) of the Act (22 U.S.C. 3942(b)), and who have not been reassigned within 90 days after the termination of such assignment, plus any period of authorized leave, shall be retired as provided in section 813 of the Act (22 U.S.C. 4053).

- a. For purposes of this section, a reassignment includes the following:

- (1) An assignment to an established position for a period of at least 6 months pursuant to the established assignments process (including an assignment that has been approved in principle by the appropriate assignments panel);
- (2) Any assignment pursuant to section 503 of the Foreign Service Act of 1980 (22 U.S.C. 3983), as amended;

- (3) A detail (reimbursable or non-reimbursable) to another U.S. Government agency or to an international organization;
 - (4) A transfer to an international organization pursuant to 5 U.S.C. 3581 - 3584; or
 - (5) A pending recommendation to the President that the former appointee be nominated for a subsequent Presidential appointment to a specific position.
- b. Except as provided for in section (c), a reassignment does not include an assignment to a Department bureau in "over complement" status or to a designated "Y" tour position.
 - c. The Director General may determine that appointees who have medical conditions that require assignment to "medical over complement" status are reassigned for purposes of Section 813 of the Foreign Service Act (22 U.S.C. 4053).
 - d. To the maximum extent possible, former appointees who appear not likely to be reassigned and thus subject to mandatory retirement under section 813 will be so notified in writing by the Director General not later than 30 days prior to the expiration of the 90 day reassignment period.

3 FAM 6216 EFFECTIVE DATE OF RETIREMENT

3 FAM 6216.1 Setting Effective Date

(CT:PER-586; 06-07-2006)

(State only)

(Applies to Foreign Service Employees)

- a. Members of the Service who are subject to mandatory retirement under 3 FAM 6213 or 3 FAM 6214 shall have the effective date of their retirement set by the Director General of the Foreign Service, as follows:
 - (1) For retirement for time-in-class/time-in-service (3 FAM 6213.3), within six months after the expiration of the TIC/TIS limit.
 - (2) For retirement based on failure to be promoted following review by six successive Senior Threshold Boards (3 FAM 6213.7), within six months following dismissal of the final STB.

- (3) For retirement based on relative performance (3 FAM 6214), within six months after the decision in the final administrative review specified in 3 FAM 6214.2 or 3 FAM 6214.3.
- b. The Director General will notify a member of the Service in writing as soon as the effective date of retirement has been set under subsection (1), 2), or (3) above. To the maximum extent possible, such members shall be given at least 30 days' notice of retirement.
- c. A member of the FS retired under 3 FAM 6213.7 after failing to be promoted following review by six successive Senior Threshold Boards will to the maximum extent possible be provided sufficient notice of retirement to permit the member 60 days in the United States prior to the effective date of retirement.
- d. The effective date of retirement of a former Presidential appointee mandatorily retired under 3 FAM 6215 ordinarily will be the day after the 90-day period, or the day following any period of authorized leave after the 90-day period, following the termination of the Presidential assignment. The Director General will authorize leave during this period of extension only in special circumstances.
- e. The mandatory retirement of a member covered under section 6213.6 will be effective at the end of the month in which the member becomes eligible for an immediate annuity, unless retirement is postponed for an additional period under 3 FAM 6216.2-1 or 3 FAM 6216.2-2.

3 FAM 6216.2 Postponement of the Effective Date of Retirement

3 FAM 6216.2-1 Members Retired for Expiration of Time-in-Class/Time-in-Service

(CT:PER-586; 06-07-2006)

(State only)

(Applies to Foreign Service Employees)

Notwithstanding 3 FAM 6216.1, pursuant to delegated authority under Section 607(d)(2) of the Act (22 U.S.C. 4007(d)(2)), if the Director General determines it to be in the public interest, the Director General may extend temporarily the career appointment of a career member of the FS who is to be retired under 3 FAM 6213. No such extension may exceed one year from the date of TIC/TIS expiration.

3 FAM 6216.2-2 Presidential Appointees

(CT:PER-586; 06-07-2006)

(State only)

(Applies to Foreign Service Employees)

With regard to a member of the FS who would be retired under 3 FAM 6213 who is occupying a position to which the member was appointed by the President, by and with the advice and consent of the Senate, the effective date of retirement will not take effect until the end of the month in which such appointment is terminated and may be further postponed in accordance with 3 FAM 6216.2-1.

3 FAM 6216.2-3 Effect of Postponement

(CT:PER-586; 06-07-2006)

(State only)

(Applies to Foreign Service Employees)

- a. Members whose effective date of retirement is postponed under 3 FAM 6216.2-1 will not be eligible for promotion consideration.
- b. Career members of the Senior Foreign Service whose TIC has expired but who continue to serve under career appointments under Section 607(d) (22 U.S.C. 4007(d)) and who continue to work in a current assignment or in an assignment specified by HR/CDA as of the end of the rating period on April 15 shall be eligible to compete for agency and presidential performance pay for the final rating cycle during the period of extension of their appointments. Any members wishing to compete for performance pay must so inform HR/PE by the end of the April 15 rating period and must elect to have EERs, covering at least 120 days, prepared on their performance at end of this final rating cycle.
- c. A career member of the Senior Foreign Service in the class of Career Minister whose effective date of retirement is postponed under 3 FAM 6212 (b) or (c) will be considered for conferral of the personal rank of Career Ambassador if the member is otherwise eligible.
- d. Any member of the Service retired under 3 FAM 6214 based on relative performance shall not receive a within-grade increase or be eligible for performance pay during the period from the final decision of the PSB or SRB until the effective date of retirement.

3 FAM 6217 THROUGH 6219 UNASSIGNED